

JUN 12 2006

PATENT CA990018US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Finlay et al.

Examiner: Anh Ly

Serial No. 09/628,599

Group Art Unit: 2162

Filed: July 28, 2000

Docket No. CA990018US1

Title:

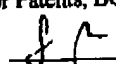
DIRECT CALL THREADED CODE

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CERTIFICATE UNDER 37 C.F.R. § 1.8

I hereby certify that this correspondence and identified enclosures are being transmitted by facsimile, to the central FAX # 571/273-8300, under 37 C.F.R. § 1.8, and is addressed to the Commissioner for Patents, BOX: Amendment, on June 12, 2006.

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Sandra Parker**REPLY TO INTERVIEW SUMMARY**

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STATEMENT OF THE SUBSTANCE OF THE INTERVIEW

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

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Sir:

Applicant's attorney is compelled to respond to the Interview Summary, mailed on 5/12/06, due to numerous gross misinterpretations and material inaccuracies. This Reply is mailed within the statutory one month after the mailing date of the Interview Summary by Examiner Ly.

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Applicant's attorney received an improper Office Action and, after numerous days of waiting to get an Examiner's interview or talk to the Supervising Examiner, finally sent two enclosed e-mails, first on 5/2/06 to the three Examiners and second on 5/4/06 to the Director, because there was no response.

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Finally, on 5/4/06, and not on 5/3/06 as is incorrectly stated in Examiner's Interview Summary, the Examiner Ly called. However, because he did not know the new law, cited in the e-mails, and did not want to read it with the Applicant's attorney, Applicant's attorney asked to talk to the Supervisory Examiner Breene.

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1. Examiner Ly did not discuss Internet communications and authorization. This issue is moot for several reasons: a) there were numerous previous e-mail messages, some of which were initiated by Examiner Ly, b) Applicant's e-mails only discussed the Office Action which is posted on the Public PAIR, c) Assignee IBM Corp. received copies of all e-mails and never posted an objection, and d) Examiner never before mentioned a need for an authorization.
2. Examiner did not even mention the possibility of approval of the Appeal Brief. He certainly did not state that it was approved and signed by the SPE on or before 5/4/06. Moreover, in the next day's interview with the SPE Breene the SPE did not know that he allegedly approved the Appeal Brief and signed it by the previous day!
3. Thus, because it became painfully obvious to the Applicant's Attorney that the letter of law and rules were completely disregarded and that no good will existed for a reasonable discussion in order to come to a meeting of the minds, Applicant's attorney filed a Response to the Office Action on 5/8/06 which put the Applicant in a position of considerable cost and delays.
4. Applicant has not received the Examiner's Answer and is now confused as to whether the Appeal Brief really got approved on or about 5/4/06 so a clarification is respectfully requested.

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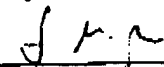
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Dated: June 12, 2006

Respectfully submitted,



Sandra M. Parker
Reg. No. 36,233

LAW OFFICE OF SANDRA M. PARKER
329 La Jolla Avenue
Long Beach, CA 90803
Phone/Fax: (562) 597-7504

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Sandra Parker

From: "Sandra Parker" <sandramparker@charter.net>
To: <james.dwyer@uspto.gov>
Sent: Thursday, May 04, 2006 12:29 PM
Attach: ca990018us1_Office_Action.PDF
Subject: Fw: Pat. appl. 09/628,599 (our docket CA990018US1)

Dear Mr. Dwyer,

I hope that you can help me. Supervisory Examiner Breene may get back to me tomorrow but he did not look at the new MPEP sections from my attached e-mail.
Even if I get his response it may be late for my Response by the due date 5/7/06.

As you can see from the attached Office Action, old law 1.193 was cited, there is no 1207.4 (p.1200-39) form paragraph with the new CFR 41.31, there is no statement that the SPE "has approved of reopening by signing below [4]" and there are other numerous improprieties. Moreover, a completely new search was done and new prior art was cited, instead of the prior art on the record.
Furthermore, as can be seen in the OA regarding claim 1, on pp. 4-5, it was rejected under Sec. 102, however there is no mentioning of the "direct call mechanism replacing a lookup function", which is the gist of the present invention, as seen in the Title, claims and elsewhere, so this new rejection is frivolous, as were the two previous rejections.

Even if we file a new Reply Brief, it would be the first time to argue the new prior art and the Examiner may again reopen the prosecution with a new search.
What is to stop the examiner from doing new searches forever?
This cannot possibly be the policy, now that the patent term is calculated from the date of filing.

This kind of "prosecution" has been going on for 6 years now in this case. It is clear that the examiner would have written the Examiner's Answer if he thought that he would win on Appeal so the application should be allowed now.
Doing a new search after 6 years is very unfair and there is no authority for it in any 37 CFR appeal rules.

Furthermore, it is unfair that a patent attorney cannot get to talk to the Supervisory Examiner, Director or SPRE. When calling the 2162 art unit number, found in the PTO directory (571/272-2100), the voice mail loops and you cannot get anyone.

Please help me. In my legal opinion the improper Office Action should be revoked and the Appeal should be reinstated. The PTO Directory states, under Petitions, that it is the role of the Director of the appropriate Tech. Center.

Because that is your function, please review and advise asap.

Best Regards,
Sandra Parker
562/597-7504

----- Original Message -----

From: "Sandra Parker" <sandraparker@charter.net>
To: "Breene, John" <John.Breene@USPTO.GOV>; "Ly, Anh" <Anh.Ly@USPTO.GOV>
Cc: "Corrielus, Jean M." <Jean.Corrielus@USPTO.GOV>
Sent: Tuesday, May 02, 2006 1:05 PM
Subject: Pat. appl. 09/628,599 (our docket CA990018US1)

> Dear Examiners,
>
> I received an improper Office Action. I need your review and instructions
> asap,
> in order to file either a Response or a new Notice of Appeal, by 5/7/06.
>
> This patent application was filed almost 6 years ago and has been under
> Appeal since 2004. We already filed an RCE previously, in 2003, after a
> false Examiner's promise, but to no avail. Almost two years after the
> Appeal
> Brief was filed,
> the Examiner issued an improper Office Action and used a law which was
> repealed almost 2 years ago (37 CFR 1.193). Moreover, he improperly
> performed a
> new search and this time he cited 2 IBM patents, but did not state that
> there are new ground for rejection. Even the mailing address is very old,
> at
> Washington DC. Moreover, he did not state that he obtained Supervisor's
> approval for the reopening.
>
> I left phone messages for the Supervisory Examiner and Primary Examiner.
>
> Please note that the new law is 37 CFR 41.39 and in MPEP it is Sec. 1207
> (p.
> 1200-26), 1207.03 (p. 1200-35) and 1207.04 (p. 1200-39). Actually, the new
> CFR 41.39 does not allow the examiner to reopen prosecution so it is
> unclear
> which law was followed in MPEP 1207 and 1207.04. Further, p. 1200-35
> states

6/12/2006

- > that a new ground of rejection is rare and may add a secondary reference
- > from the prior art on the record. This was not followed here and two new
- > references were picked in a new search.
- >
- > I propose to write a Response stating all the errors and request a
- > substitute Office Action or Examiner's Brief and that a new law and ground
- > of rejection is indicated as such and only using previously found prior
- > art.
- >
- > Entering of the new prior art should not be allowed. Moreover, the
- > Appellant
- > should not have to pay additional appeal fees (\$400 difference) and for a
- > new Reply Brief.
- >
- > Please respond asap and propose an adequate solution.
- >
- > Please advise,
- > Sandra Parker
- >

----- Original Message -----

From: "Sandra Parker" <sandraparker@charter.net>
To: "Breene, John" <John.Breene@USPTO.GOV>; "Ly, Anh" <Anh.Ly@USPTO.GOV>
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